

# EXHIBIT D

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION

UNITED STATES OF AMERICA, ex rel. )  
DILBAGH SINGH, M.D., PAUL KIRSCH, )  
M.D., V. RAO NADELLA, M.D., and )  
MARTIN JACOBS, M.D., )

Relators, )

vs. )

Civil Action  
No. 04-186E

BRADFORD REGIONAL MEDICAL CENTER, )  
V&S MEDICAL ASSOCIATES, LLC, )  
PETER VACCARO, M.D., KAMRAN SALEH, )  
M.D., and DOES I through XX, )

Defendants. )

DEPOSITION OF PETER VACCARO, M.D.

THURSDAY, AUGUST 9, 2007

Deposition of PETER VACCARO, M.D., called as a  
witness by the Plaintiffs, taken pursuant to Notice of  
Deposition and the Federal Rules of Civil Procedure,  
by and before Joy A. Hartman, a Court Reporter and  
Notary Public in and for the Commonwealth of  
Pennsylvania, at the offices of Fox Rothschild, 625  
Liberty Avenue, 29th Floor, Pittsburgh, Pennsylvania,  
commencing at 2:56 p.m. on the day and date above set  
forth.

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JOHNSON and MIMLESS  
(412) 765-0744

**COPY**

1 Q. Where did you graduate from medical school?

2 A. University of Guadalajara, Mexico.

3 Q. When did you graduate?

4 A. 1985.

5 Q. After graduating -- well, I guess, are you an  
6 American citizen?

7 A. Yes, I am.

8 Q. Have you always been?

9 A. I was born in Brooklyn, New York.

10 Q. After graduating from medical school, have you  
11 had any further formal medical education, including  
12 residency programs?

13 A. Other than residency programs?

14 Q. Including residency programs.

15 A. Residency in internal medicine.

16 Q. And where did you do that residency?

17 A. I had to do a Fifth Pathway, which is --

18 Q. What is that?

19 A. A Fifth Pathway coming from a Mexican school is  
20 one of the agreements that the University of Mexico  
21 has to get us into the mainstream again to apply for a  
22 residency in the United States.

23 Q. And what does a Fifth Pathway involve?

1 (EXAMINATION RESUMED AFTER "ATTORNEYS'  
2 EYES ONLY" EXCERPT OF DEPOSITION OF DR. VACCARO WITH  
3 EXAMINATION RESUMED BY ATTORNEY SIMPSON.)

4 - - -

5 EXAMINATION

6 **BY MR. SIMPSON:**

7 Q. Where do you currently have privileges,  
8 hospital privilegeS?

9 A. I have privileges at two hospitals. My first  
10 hospital privileges were Bradford Regional Medical  
11 Center.

12 Q. And when did you get those?

13 A. In 1994.

14 Q. And you have had those since then?

15 A. Yes, I have.

16 Q. And where else?

17 A. At Olean General Medical Center.

18 Q. And when did you get those?

19 A. I don't recall, sir. Sometime in 2001 or 2 or  
20 3, within those times.

21 Q. Five years, plus or minus ago?

22 A. Yes.

23 Q. Have you ever had privileges at any other

1 V&S' practice before you acquired the nuclear camera  
2 that you disagreed with?

3 MR. RYCHCIK: Objection as to form of the  
4 question.

5 A. I feel like I'm here to confirm Dr. Saleh's  
6 testimony, and I thought you were going to get my  
7 testimony.

8 Q. I am. I am. I am just trying -- I'm first  
9 going to ask you if there was anything in his  
10 testimony that you disagreed with.

11 A. No. His testimony in describing the practice  
12 as it works was very accurate.

13 Q. During that period of time, is it fair to say  
14 that the vast majority of your inpatient referrals  
15 were made to Bradford Medical Center?

16 MR. RYCHCIK: Objection as to form.

17 A. During what period OF time?

18 Q. During the period of time before you acquired  
19 the nuclear camera.

20 MR. RYCHCIK: Objection as to the form of  
21 the question. Go ahead. You can answer.

22 A. Could you repeat the question, please?

23 Q. Is it fair to say that during that period of

1 time before you got the nuclear camera, that the vast  
2 majority of your inpatient referrals were to Bradford  
3 regional Medical Center?

4 MR. RYCHCIK: Same objection. Go ahead  
5 and answer.

6 A. The inpatient referrals were based on a very  
7 sensitive issue of where the patients wanted to go and  
8 what was accessible, depending on their problem; and,  
9 you know, there could be multiple places they could  
10 go, but, you know, most of the time they would pick  
11 the most convenient, which would be Bradford Medical  
12 Center.

13 Q. So is the answer to my question, then, yes?

14 A. Yes, according to all the potential options  
15 that were available.

16 Q. The same question for outpatient referrals. Is  
17 it fair to say that most of your outpatient referrals  
18 were to Bradford Regional Medical Center?

19 MR. RYCHCIK: Objection as to the form of  
20 the question. You can answer.

21 A. Again, Bradford Regional Medical Center was one  
22 of the options; and most of the time, the patient  
23 wanted to go to Bradford Regional Medical Center, and

1 if that is what they wanted, that is where they went.

2 Q. I understand there might have been good reasons  
3 to send them there. I am just asking you for just the  
4 simple facts. It is true that most of the outpatient  
5 referrals were to Bradford as opposed to somewhere  
6 else?

7 A. I just wanted to make sure that it is  
8 understood that it is not just an automatic thing all  
9 the time, that most of the time, it is because of  
10 patient choices.

11 Q. My question is not about the reasons. My  
12 question is about the simple fact. It is a fact, is  
13 it not, that most of the outpatient referrals were to  
14 Bradford?

15 A. Yes, they were.

16 Q. Now, after you leased the nuclear camera --  
17 well, let me ask you this: In the period when you  
18 were deciding whether or not to lease the nuclear  
19 camera, do you recall doing any projections about the  
20 amount of additional income that you would receive?

21 A. There could have been some discussions.

22 Q. Do you recall any specific discussions?

23 A. No.

1 about. They are exploring the possibilities of a  
2 joint venture.

3 Q. Do you recall any communications from Bradford  
4 discussing these same issues with respect to the  
5 sublease arrangement, as opposed to the under  
6 arrangements?

7 A. Are you referring to the Stark laws?

8 Q. Yes. This letter, basically, says an under  
9 arrangements venture, these comply with the Stark law?  
10 Do you recall getting any similar letter dealing with  
11 the application of Stark law to a sublease  
12 arrangement?

13 A. No, I don't recall.

14 Q. Do you recall having any discussions with  
15 Bradford being in any meeting where Bradford was  
16 participating with you and your attorneys, any  
17 statements about whether or not the sublease  
18 arrangement as proposed, in fact, satisfied the Stark  
19 statute?

20 A. Well, I seem to have acquired, you know, the  
21 knowledge that a sublease agreement had to be based on  
22 a fair market value, and, most likely, have a  
23 non-compete associated with that. We knew that that



1 would probably -- that that would satisfy the Stark  
2 law.

3 Q. Was that based -- you said we knew that. Was  
4 that based on anything that Bradford told you?

5 A. It could have been. I don't recall.

6 Q. Was it based on anything your attorneys stated  
7 in anything that Bradford was present at?

8 A. I don't remember exactly where.

9 Q. So you have no recollection of any specific  
10 such instance where anybody told you, yes, this  
11 satisfies Stark?

12 MR. RYCHCIK: Objection. Again, I am  
13 assuming that you are not asking for  
14 attorney-client --

15 Q. I am not asking for a conversation just between  
16 you and your attorney. I am asking for anything where  
17 Bradford was involved.

18 A. I am sure they must have mentioned that, but I  
19 don't remember, because we were always worried about  
20 violating Stark or an anti-kickback.

21 Q. I want to ask you the same question I asked Dr.  
22 Saleh. Are you basing your defense in this case in  
23 whole or in part upon a claim that your attorneys

## 1 C E R T I F I C A T E

2 COMMONWEALTH OF PENNSYLVANIA :  
3 : SS.:  
4 COUNTY OF ALLEGHENY :

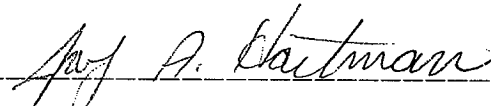
5 I, Joy A. Hartman, a Notary Public in and for  
6 the Commonwealth of Pennsylvania, do hereby certify  
7 that before me personally appeared PETER VACCARO,  
8 M.D., the witness herein, who then was by me first  
9 duly cautioned and sworn to testify the truth, the  
10 whole truth and nothing but the truth in the taking of  
11 HIS oral deposition in the cause aforesaid; that the  
12 testimony then given by him as above set forth was  
13 reduced to stenotypy by me, in the presence of said  
14 witness, and afterwards transcribed by computer-aided  
15 transcription under my direction.

16 I do further certify that this deposition was  
17 taken at the time and place specified in the foregoing  
18 caption, and signature was not waived.

19 I do further certify that I am not a relative  
20 of or counsel or attorney for any party hereto, nor am  
21 I otherwise interested in the event of this action.

22 IN WITNESS WHEREOF, I have hereunto set my hand  
23 and affixed my seal of office at Pittsburgh,  
24 Pennsylvania, on this 14th day of August, 2007.

25 The foregoing certification does not apply to  
26 any reproduction of this transcript in any respect  
27 unless under the direct control and/or direction of  
28 the certifying reporter.

29  
30   
31 Joy A. Hartman, Notary Public  
32 in and for the Commonwealth of  
33 Pennsylvania

34 My commission expires May 9, 2010.

Commonwealth of Pennsylvania  
NOTARIAL SEAL  
JOY A. HARTMAN, Notary Public  
City of Pittsburgh, County of Allegheny  
My Commission Expires May 9, 2010